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Paper No. 8

GREGG C. BENSON  
PFIZER INC.  
PATENT DEPARTMENT, MS4159  
EASTERN POINT ROAD  
GROTON CT 06340

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**SEP 3 0 2002**

**OFFICE OF PETITIONS**

In re Application of :  
Naylor et al. :  
Application No. 10/017,273 : ON PETITION  
Filed: 12 December, 2001 :  
Attorney Docket No. PC22013AADO :

This is a decision on the renewed petition filed on 17 September, and supplemented by facsimile on 26 September, 2002, under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 12 December, 2001, with Pages 123 and 124 of the specification as a part of the original disclosure.

The petition is granted.

On 12 December, 2001, the application was filed.

On 26 March, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice" stating, *inter alia*, that the application had been accorded a filing date of 12 December, 2001, but that Pages 123 and 124 of the specification (description and claims) appeared to have been omitted from the application. A two (2) month period for reply was set. The petition filed on 29 May, 2002, was dismissed on 26 August, 2002.

In response, on 17 September, 2002, the present petition was filed by facsimile. Petitioners again argue that Pages 123 and 124 were present among the application papers filed on 12 December, 2001. In support, a copy of petitioners' postcard receipt was supplied with the present renewed petition. The postcard receipt bears a USPTO Office stamp dated 12 December, 2001, and showing the above-identified application number, and identifies the application by first named inventor's name, invention title, and docket number, and itemizes the filing of,

*inter alia*, Specification 131 pages. Petitioners request that the application, including Pages 123 and 124 of the specification, be accorded a filing date of 12 December, 2001.

A review of the record reveals that Pages 123 and 124 of the specification are not located among the application papers deposited on 12 December, 2001. However, the evidence is convincing that the application papers deposited on 12 December, 2001, included Pages 123 and 124 of the specification and that those pages were subsequently misplaced in the Office. Therefore, the application, including Pages 123 and 124 of the specification, is entitled to a filing date of 12 December, 2001. The "Notice" mailed on 26 March, 2002, is vacated to the extent that it stated that Pages 123 and 124 of the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee of \$130.00 will be refunded to counsel's deposit account, No. 16-1445.

The application will be processed using the application papers filed on 8 October, 2001, and the copy of Pages 123 and 124 of the specification supplied by facsimile on 26 September, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 12 December, 2001, using the application papers filed on 12 December, 2001, and the copy of Pages 123 and 124 of the specification (description and claims) supplied on 26 September, 2002.

Telephone inquiries should be directed to the undersigned at 703 308-6918.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy